

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)

R & L Marketing, Inc.)

Fond du Lac, Wisconsin)

PROCEEDINGS PURSUANT TO)
SECTION 608 OF THE CLEAN AIR)
ACT, 42 U.S.C. § 7671g)

FINDING OF VIOLATION

EPA-5-99-WI-11

FINDING OF VIOLATION

The United States Environmental Protection Agency (U.S. EPA) hereby notifies the State of Wisconsin and R & L Marketing, Inc. (R & L) located at 730 South Military Road, Fond du Lac, Wisconsin, that the Administrator of the U.S. EPA finds R & L to have violated Section 608 of the Act, 42 U.S.C. § 7671g, and its implementing regulations at 40 C.F.R. Part 82, Subpart F.

REGULATORY BACKGROUND

1. Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2), authorizes U.S. EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of, among other things, class II substances, as defined at Section 602(b) of the Act, 42 U.S.C. § 7671a(b), during service, repair, or disposal of appliances and industrial process refrigeration.
2. On May 14, 1993, the Administrator of U.S. EPA initially promulgated regulations pursuant to Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2). 58 Fed. Reg. 28712. These regulations have been subsequently amended and are codified at 40 C.F.R. Part 82, Subpart F (40 C.F.R. §§ 82.150 through 82.166 and Appendices A through D).
3. 40 C.F.R. § 82.154(m) requires, in part, that no person may sell or distribute, or offer for sale or distribution, any class I or class II substance for use as a refrigerant to any person unless the buyer is a certified technician, or the refrigerant is sold only for eventual resale to certified technicians.

4. 40 CFR § 82.166(a) requires that persons who sell or distribute any class I or class II substance for use as a refrigerant must retain invoices that indicate the name of the purchaser, the date of sale, and the quantity of refrigerant purchased.
5. 40 CFR § 82.166(m) requires that all records required to be maintained pursuant to 40 CFR § 82.166 must be kept for a minimum of three years unless otherwise indicated.

Statement of Facts

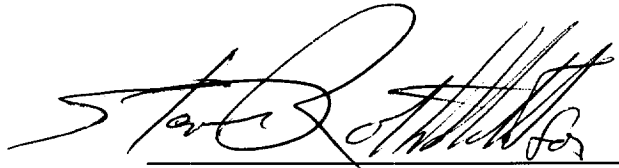
5. R & L is the owner and operator of R & L Marketing located at 730 South Military Road, Fond-du Lac, Wisconsin.
6. McCool Chill-it is a Class II ozone depleting refrigerant substitute blend.
7. During the period from June 1998 through August 1998, in at least twenty seven separate transactions, R & L sold or distributed McCool Chill-it to persons who were not certified technicians or to persons for purchasing such refrigerant for resale only.
8. During the period from June 1998 through August 1998, with respect to at least nineteen separate transactions, R & L's invoices and other sales records lack the name of the purchaser, the date of the sale, and/or the quantity of refrigerant purchased.

Findings of Violation

9. Each R & L transaction involving the sale or distribution of McCool Chill-it refrigerant to persons other than certified technicians or to persons purchasing such refrigerant for resale only, represents a violation of Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2) and 40 C.F.R. § 82.154 (m).
10. Each transaction wherein R & L's invoices and other sales records lack the name of the purchaser, the date of the sale, and/or the quantity of refrigerant purchased, represents a violation of Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2) and 40 C.F.R. §§ 82.166(a) and (m).

Wherefore, the Administrator of the U.S. EPA, by authority duly delegated to the undersigned, hereby notifies R & L Marketing, Inc. and the State of Wisconsin that R & L Marketing, Inc. is in violation of the Clean Air Act and implementing regulations as set forth above.

2/18/99
Date


Richard C. Karl, Acting Director
Air and Radiation Division